FARAD CONTINUATION SHEET.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR.

WRIT PETITION NO.5579/2004

Bharatsingh s/o Raghunathsingh Bais

...Versus...

The Additional Collector, Nagpur and others

Office Notes, office Memoranda of Coram appearances, Court's orders or directions and Registrar's order.	Court's or Judge's order

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CORAM: **B.P. DHARMADHIKARI, J.**
DATED : **12.12.2005.**

1. Heard Advocate Shri R.S. Charpe for petitioner, Advocate Shri A.V. Bhide for respondent no.5 and learned A.G.P. for respondent no.1.

2. The grievance made by Advocate Shri Charpe is that the appellate authority vide order dated 30.8.1992 remanded the matter

back to Rent Controller and after remand, Rent Controller did not pass order afresh but has only passed supplementary order. He states that thus there was procedural error which has caused prejudice to the petitioner. He further states that the said order was confirmed in appeal by the appellate authority, and the review against it is also rejected.

3. As against this, Advocate Shri Bhide for respondent no.5 contends that the remand was for a particular purpose and as after spot inspection, Rent Controller again found in favour of respondent no.5, fresh order was not necessary.

4. I perused the order dated 30.8.1992. It reveals that the remand was only with a view to find out whether the space occupied by present petitioner was really required for fitting of xerox machine. For that purpose

appellate authority expected the Rent Controller to see the spot. The remand was not for other purpose and the said order does not say that findings recorded by Rent Controller earlier are in any way should be quashed and set side. This remand order is not challenged by petitioner. The Rent Controller thereafter has inspected the spot. The petitioner has also filed objection to spot inspection and after spot inspection, Rent Controller has found that the premises are needed by present respondent no.5 and therefore, it maintained permission under Clause 13 (3) (vi). For that purpose it has passed only a supplementary order. Had the Rent Controller reached a finding to the contrary and found that premises are not needed by landlord then the question of passing fresh order would have arisen. After

spot inspection, the permission earlier granted was confirmed, and therefore, it was not necessary for the said authority to pass fresh order. I, therefore, find that no case is made out for interference in writ petition. Writ Petition is accordingly dismissed. No costs.

JUDGE

SSW